



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 16, 1995

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-123

Dear Ms. Briggs:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 30115.

The City of Houston (the "city") has received a series of requests for, among other things, records relating to certain real property located at 2121 Pech Road in Houston, information in the possession of the Houston City Council, the financial disclosure statements of certain city officials, and information relating to enforcement of the city's building code. You advise us that the city has made some of the requested information available to the requestor and that some of the requested information does not exist. You seek to withhold the remainder of the requested information, which you have submitted to us for review, and claim that sections 552.101, 552.103(a), and 552.107 of the Government Code except it from required public disclosure.

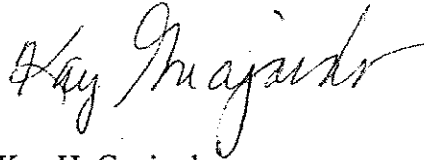
To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to reasonably anticipated litigation for purposes of section 552.103(a). Those records not already made available to the requestor may therefore be withheld.

In reaching this conclusion, however, we assume that the opposing party to the anticipated litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation,

for example, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the anticipated litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). Because we resolve this matter under section 552.103(a) of the Government Code, we need not address the applicability of sections 552.101 and 552.107 at this time.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/GCK/rho

Ref.: ID# 30115

Enclosures: Submitted documents

cc: Jack Yetiv, MD, Ph.D.
2121 Pech Road
Houston, Texas 77055
(w/o enclosures)